

# Wyatt J. Dowling

SENIOR COUNSEL

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## Credentials

- The University of Texas School of Law  
J.D.  
Order of the Coif
- Boston College  
Ph.D., Political Science
- Saint John's College  
B.A., History of Science/Philosophy
- Law Clerk to the  
Hon. Royce Lamberth,  
U.S. District Court, District of Columbia
- Intern to the  
Hon. Barbara Hervey,  
Texas Court of Criminal Appeals
- Admitted to Practice:  
Texas  
District of Columbia  
U.S. District Court for the Northern, Southern,  
Eastern, and Western Districts of Texas

Wyatt's practice is focused on complex commercial litigation. He graduated from The University of Texas School of Law and served as Associate Editor of the Texas Law Review.

Wyatt clerked for the Honorable Royce Lamberth of the U.S. District Court for the District of Columbia. During his clerkship, he drafted more than two-dozen opinions in civil cases involving the False Claims Act, Title VII, §1983, the Freedom of Information Act, the Federal Election Campaign Act, challenges to agency action under the Administrative Procedure Act, and violations of District of Columbia law. Wyatt also drafted numerous criminal orders and opinions, including opinions concerning the exclusion of Rule 609 and 404(b) evidence prior to a multi-defendant drug conspiracy trial and orders in support of pretrial detention.

Prior to joining the firm, Wyatt interned for the Honorable Barbara Hervey in the Texas Court of Criminal Appeals and participated in internships with the U.S. Department of State in Macedonia and with the WilmerHale Legal Services Center of Harvard Law School which provides assistance to low-income clients who cannot afford representation.

Wyatt is recognized in commercial litigation by *Best Lawyers in America*® as "One to Watch" and as a "Texas Rising Star" by Thomson Reuters' *Super Lawyers*.

## Experience

- **Confidential.** Represented a Fortune 500 company in prosecuting and successfully resolving its trademark and contract rights in a dispute with another Fortune 500 company, allowing our client to protect its valuable intellectual property while preserving a vital business relationship.
- **Smith v. SEECO, Inc., et al.** Part of trial team representing Southwestern Energy and affiliates in contract and fraud class actions concerning post-production expense deductions from royalty payments. Through overlapping class actions in Arkansas state and federal courts, various plaintiffs representing more than 12,000 class members alleged that Southwestern's affiliate was prohibited from deducting the costs of its sister-company's gas gathering services. After a two-week trial in Little Rock, the firm and co-counsel achieved a complete defense victory, with the jury rejecting the plaintiff's claim for \$300 million in actual and punitive damages and penalties.

- **Confidential.** Represented an electric generation plant in an arbitration involving complex breach of contract and declaratory judgment claims valued at over \$90 million brought by a part-owner and purchaser of the plant's capacity after it raised various challenges to the plant's administration of the power purchase agreement, calculation of the reservation payment, and pass-through of costs. Following a one-week arbitration hearing, a three-arbitrator panel issued a unanimous decision in our client's favor on each of the significant claims.
- **American Airlines v. Gogo, Inc.** Represented American in a contract dispute with Gogo, the dominant U.S. provider of in-flight Wi-Fi. For years, American used Gogo's legacy land-based systems for in-flight Wi-Fi, which faced increasing competition from faster and cheaper satellite-based offerings. In 2016, American requested that Gogo match the competitors' offerings, and Gogo refused. American then filed a lawsuit requesting a declaration that it was entitled to pursue better Wi-Fi options for its customers. Within days, Gogo agreed to drop its objections, allowing American to install improved Wi-Fi systems from both Gogo and its competitors.
- **Business Logic Holding Corp. v. Morningstar et al.** Part of the trial team representing Business Logic in a breach of contract and trade secrets case related to retirement advice software. Prepared witness outlines and worked with a key testifying expert to translate technical software concepts into a form the jury could understand. The firm secured several key pre-trial rulings, including dismissal on summary judgment of defendants' counterclaim. One business day before trial, defendants agreed to pay Business Logic \$61 million to settle the case, which represented a recovery of 95% of the maximum claimed damages. The settlement is reported to be the 9th largest disclosed trade secrets settlement in U.S. history.
- **MM Steel, LP v. Reliance Steel & Aluminum Co., et al.** Represented a start-up steel distributor in a federal antitrust suit against the nation's largest steel distributors and manufacturers arising from the defendants' efforts to prevent the entry of a new competitor in the Gulf Coast region. In one of the few per se antitrust cases to proceed to trial in decades, the firm secured a victory in a five-week jury trial on all claims and a verdict of \$54 million, which was trebled to \$156 million. Ranked the #1 U.S. and Texas antitrust verdict, and the #3 overall verdict in Texas for 2014 by Verdict Search.
- **Confidential.** Represented a major Indonesian palm oil conglomerate in a dispute with a Texas-based energy company alleging fiduciary, fraud, and other claims arising out of a failed venture to market biodiesel in the U.S. Our client faced counterclaim liability in the hundreds of millions based on allegations that it had breached an unwritten agreement to provide palm oil feedstock for marketing as biodiesel. The case settled favorably on the eve of trial, with no money being paid by our client.
- Represented American Airlines in contract dispute with one of the nation's largest online ticket distributors in connection with renegotiation of the parties' distribution agreement. Provided detailed analysis of relevant contracts and developed litigation strategy to support American's business team. On the eve of the agreement's expiration, the dispute was resolved without litigation, with American securing a highly favorable renewal of the parties' agreement.

- **American Airlines v. Sabre, Inc. and Travelport Ltd.** Represented American in a \$1 billion antitrust lawsuit against the two largest U.S. global distribution systems arising from the GDSs' efforts to stop American from using competitive ticket distribution technology, including by organizing an industry boycott against American. Drafted important briefs in the case, including several summary-judgment motions, one of which led to the dismissal of a defendant's counterclaim. After three weeks of trial to a Texas state court jury, the firm secured a substantial settlement of American's state antitrust claims against Sabre, including a renewed multi-year distribution agreement for American's flights, negotiation for future technology services, and a confidential monetary payment that press reports estimated at mid nine figures. The firm also secured a favorable settlement in federal court of American's federal claims against Travelport, including a renewed distribution agreement and a confidential monetary payment.
- **Armstrong v. American Pallet Leasing** Represented individual defendant seeking to vacate a nearly \$1 million default judgment in a securities fraud case involving hundreds of pro se plaintiffs. Drafted motion to vacate and negotiated complex settlement, which resulted in the default judgment being set aside and all claims dismissed.
- **Confidential.** Assisted client in pre-suit investigation involving offshore drilling equipment failure by conducting detailed fact investigation and assessing its potential liability.
- **Neon v. IBM** Assisted in the defense of IBM in a multi-billion-dollar antitrust suit brought by Neon. Briefed the firm's partners for, and second-chaired, the depositions of more than ten Neon witnesses, including the company's owner and CEO. Days before trial, Neon agreed to a permanent injunction by which it would no longer sell the mainframe software at issue in the litigation. No money exchanged hands between the parties.
- **Emergency Responders for Equality v. Rhoda Mae Kerr** Represented former Austin Fire Department Battalion Chiefs and organization of emergency responders in Title VII and §1983 discrimination case involving the AFD's promotion practices. Deposed the Mayor Pro Tem and two former fire chiefs and defended the deposition of our damages expert. The parties reached an agreement resulting in a monetary award and multi-year consent decree.

### Professional Honors & Affiliations

- "Ones to Watch" in Commercial Litigation, *Best Lawyers in America*®, 2021
- "Texas Rising Star," in Business Litigation by Thomson Reuters' *Super Lawyers*, 2019-2020
- "Houston Top Lawyer" in Business and Commercial Litigation, *H Texas Magazine*, 2015
- Susman Godfrey Moot Court Competition Champion, 2010
- Board Member: Bayou Preservation Association, 2015-present
- Member: Houston Bar Association Lawyers Against Waste Committee, 2013-present; Co-Chair, 2016

## Presentations & Publications

- "'Forum' and 'Venue': A Distinction With a Difference in Texas," *The Texas Lawyer*, April 5, 2018 (co-author)
- "The Best Documents In Your Case May Be From Third Parties," *Law360*, July 24, 2017
- "Phone Records Should Be On Your Discovery Wish List," *The Texas Lawbook*, July 24, 2015 (co-author)
- "Competition Law," Presentation to General Electric Oil & Gas, Feb. 5, 2014
- "Written Discovery: Strategies and Tactics," CLE Presentation to Hewlett-Packard Legal Department, September 10, 2013
- "Choosing Time Standards Wisely In E-Discovery," *The Texas Lawyer*, September 2, 2013
- "Write Briefs With Law Clerks in Mind," *The Texas Lawyer*, Nov. 19, 2012